IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 720 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THAKORE KHEDAJI CHEHRAJI AND OTHERS
Versus
THAKORE TAKHAJI HATHIJI AND OTHERS

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Appearance :
NOTICE SERVED for Applicants No. 1,3 - 7.UNSERVED-EXPIRED (N) for Applicant No. 2,
MR MAHENDRA K PATEL for Opponent Nos 1 - 4.
RULE SERVED for Opponent No. 5.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 27/02/2006

ORAL JUDGMENT

The applicants herein are the original defendants No.1 to 7, against whom the respondents have filed Regular Civil Suit No.53/1999 for declaration and injunction. In the said suit, an application under Order 6, Rule 17 was given for amendment of written statement.

Learned trial Judge came to the conclusion that the right to file written statement was closed by the trial Court and thereafter they were permitted to file written statement and subsequently application for amendment was filed, which may change the defence totally. Therefore, the trial Court came to the conclusion that prayer for amendment of written statement cannot be granted.

The Court is informed that Mr.B.S.Oza, who was appearing for the applicants, has been appointed as a Fast Track Court Judge. It is also informed by Mr.M.K.Patel that thereafter notices to the applicants are served but they have not chosen to appear before the Court. It is also informed by Mr.M.K.Patel that the original applicant No.2 has died and even though no separate application for bringing heirs on record is preferred, the other applicants who are already on record of this case are the heirs of applicant No.2.

Since the applicants have not chosen to appear before the Court inspite of the notice of this Court, this application is required to be rejected, as the suit of 1999 cannot be delayed further. Apart from the said fact, the order in question is purely interlocutory in nature and in view of the amendment in Section 115 of Civil Procedure Code, revision application against such an order is not maintainable as it cannot be said that by such order the whole suit is disposed of.

Accordingly, this application is rejected. Rule is discharged with no order as to costs. Interim relief stands vacated. In case the applicants feel aggrieved by this order, they can file appropriate application for revival of this order within a reasonable time.

(P.B.MAJMUDAR, J.)

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